

**BOROUGH OF WIND GAP
29 MECHANIC STREET
WIND GAP, PA 18091
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EXECUTIVE SESSION

The Council met from 6:30 p.m. to 7:30 p.m. for Executive Session at Wind Gap Borough Hall.

The Council meeting of the Borough of Wind Gap on Monday, February 1, 2010, was called to order at 7:36 p.m. by Council President, Scott Parsons, at which time he reminded those present that the meeting was being recorded. In attendance were Councilmen: Joe Weaver, Dave Hess, Tony Curio, George Hinton, and Kerry Gassler. Also in attendance were Mayor James M. Shoemaker, Borough Solicitor Ronold Karasek, Borough Engineer Brian Pysner and Borough Administrator Louise Firestone. Absent was Councilman John Maher.

Council President Scott Parsons informed those in attendance that Council met in Executive Session prior to this evening's meeting to discuss real estate issues. No action will be taken at this time.

PUBLIC COMMENT

No one appeared before Council at this time.

APPROVAL OF EXPENSES

On motion by Kerry Gassler to approve the expenses in the amount of \$22,417.15 and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

SOLICITOR'S REPORT

Ron Karasek reported that all the matters being handled by his law office for the Borough during the month of January are outlined in a report. The report includes the meetings attended as Borough Solicitor.

Subdivision Matters: Preparation of Comprehensive Correspondence regarding Reduction in Amount of Performance Bond in Gap View Estates f/k/a Posh Property Major Subdivision. Preparation of Written Memorandum re: SALDO Waiver Requests in Gassler Subdivision.

Land Development Matters: N/A.

Zoning and Other Land Use Matters: Comprehensive out-of-office Conference with Borough Zoning Officer and Borough Engineer re: Zoning Issues and SALDP Issues in Water's Edge at Wind Gap, LLC (Muschlitz Quarry) Land Development Plan. Review of file and comprehensive telephone conversation with Borough Engineer re: Miller property.

Developments on Outstanding Litigation: Status Conference with County Judge re: PPL Cell Tower lawsuit.

Court Decisions on Borough Cases: N/A

Miscellaneous:

Correspondence re: Turtzo Property next to Borough Park, Revision of Act 51 – 2009 Flyer and Status Correspondence to Borough, Legal Research and Preparation of Opinion re: Request for Cell Phone Records, Preparation of Monthly Solicitor's Report. Review various correspondence,

subdivision and land development review letters, prepare correspondence, prepare extension agreements and approval forms for subdivision and land development matters and make and receive telephone calls.

Outstanding Items: Dentith storm water counterclaim (filed in response to Borough's injunction lawsuit and request for Borough's expenses) – no action taken and remains pending. Ordinance for loitering, begging and panhandling – pending but inactive. Ordinance for reimbursement of equipment, materials and supplies in responding to environmental, hazardous, safety or rescue events (police, fire or both?) – pending but inactive.

Ron reported that Brian Pysher inspected the property on North Broadway, leased by Richard Keenhold. He was contacted by RCN regarding the Franchise Agreement. He has done extensive research regarding the Right-to-Know Act and it appears that Jim Deegan of the Express-Times has filed an appeal to the State regarding the Borough's denial for the content of the text messages. The State will determine whether the text messages are open records or not. The Borough denied access to the messages because it was determined that they are personal, private matters and we don't have them anyway. He was contacted by Attorney Gordon respect to the Chief matter and Ron responded with a letter dated January 25, 2010 explaining Attorney Gordon's comments. He explained to Attorney Gordon that he and his client can certainly be present for the workshop meeting when the issues can be addressed.

ENGINEER'S REPORT

Brian Pysher reported that he did a walk through of the Miller property and there does not appear to be any new construction. The building has been cleaned out of the litter, garbage and other debris. He is ripping out the carpet and leaving the rest of the building basically how it was prior to him leasing the property. Rick Keenhold stated that he understands that there is to be no new construction and indicated that he is waiting until the property gets rezoned. Brian stated that during the original walk through with Mr. Miller the Chief expressed concern regarding the basement windows being broken so Brian asked Rick to board up the broken windows as that constitutes a potential hazardous situation. Rick asked about reconstructing the garage that is there and after discussions with the Zoning Officer, as long as it is rebuilt on the same footprint he can obtain a zoning permit.

The West Street culvert was put out to bid last week. To date, five bid packages have been picked up by contractors. He has a meeting scheduled with DEP this Wednesday to discuss the other culvert project on West Street.

Friday, January 29, 2010 at 10:00 a.m. a meeting was held at the PennDOT offices regarding the Route 33 ramp project. The Borough received a letter on Tuesday stating that a pre-construction meeting was being held for this project. The Borough was informed that this is a design and build project so PennDOT hired the low bidder, J.P. Morrissey out of Philadelphia, to design the project and once it is approved by PennDOT construction will begin. It will take a year to get through the design stage and then construction is planned to being in the spring of 2011. Brian asked PennDOT if they would consider paving the intersection at Route 512 and Male Road as it is deteriorating and has not been paved since 1997. It does not appear that this paving project is on the PennDOT maintenance plan. Brian will follow up with the PennDOT maintenance personnel. Their excuse was that they have a limited amount of federal funds and this was not included in the Route 33 project. Another meeting should be held this time next year once the design has been completed.

Brian met with representatives of PPL regarding the cell tower. They looked at property north of the proposed Industrial Drive and all parties agreed that if Industrial Drive were to be built the tower would be moved by PPL. PPL will get approval from their attorneys and have an agreement drawn up. Ron Karasek stated that because the Borough filed a lawsuit, Northampton County Court requested that both sides meet to try to come to a compromise regarding this issue. No official action needs to be taken at this time.

George Hinton asked how the design for Lehigh Avenue storm water project is coming along. Dave Hess stated that after the rain storm he walked the entire length of Lehigh and has addresses for the water pumping issues. He will get together with Brian to discuss.

Scott Parsons asked if Council originally was considering condemning the property. Brian stated that Council did discuss condemning it, but the owner was located, Mr. Miller, and he informed that there was an agreement on the property to be sold to Mr. Keenhold. The agreement stated that closing was scheduled for July. It turned out that the property was not sold, but leased to Mr. Keenhold with an option to buy. At that point, nothing further was discussed by Council. Brian spoke to the Zoning Officer and if the Borough was to condemn the property it would have to be accessed and appraised. Ron added that the law basically says that if the property can be rehabilitated or repaired then the Borough should be hesitant to condemn it. Brian did state that it can be repaired.

NEW BUSINESS

1. Hontz/Gassler Plan. Ron Karasek stated that he faxed a Recommendation for Grant of SALDO Waiver Requests acted upon by the Borough's Planning Commission at their meetings of November 5, 2009 and December 2, 2009. Borough Council has until April 12, 2010 to take action on this plan. The Planning Commission just received comments from the Lehigh Valley Planning Commission and this plan will be on the agenda for the Borough's Planning Commission (PC) meeting this Thursday. It may come back to Council again next month, but he asked Council to consider the recommended waivers at this meeting.

Acted upon at the November 5, 2009 Planning Commission Meeting.

On motion by George Hinton to approve waiver of Section 510B – Sidewalks, the PC recommends this waiver since no other sidewalks exist in the area and the purpose of sidewalks is not required for this project and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously. (*Note: Kerry Gassler abstained from all motions pertaining to this plan.*)

On motion by Scott Parsons to approve waiver of Section 514H – Buffering Residential from Commercial Areas, buffering not necessary since there is no access to the rear of Lot No. 1. The PC recommends this be granted and should be left to the personal decision of the owner of Lot No. 2 and seconded by George Hinton. Roll call vote taken. Motion carried unanimously.

On motion by Dave Hess to approve waiver of Section 402.C.4 – Man-Made or Physical Features within 200' of Site. The PC recommends since the plan does show fire hydrants within 200' of the site and that is sufficient for this plan and seconded by George Hinton. Roll call vote taken. Motion carried unanimously.

On motion by Tony Curcio to approve waiver of Section 407, 513J – Wetlands Delineation. The PC recommends this waiver because while there appears to be wetlands on the site, the Alternate Borough Engineer states that the project does not impact the site and moreover, there was a prior wetlands report by the Army Corps of Engineer dated July 23, 1998 and this report is made part of the file and seconded by Dave Hess. Roll call vote taken. Motion carried unanimously.

Acted upon at the December 3, 2009 Planning Commission Meeting.

On motion by George Hinton to approve waiver of Section 402.C.1 – Contour Lines. The PC recommends to grant the waiver since depicting contour lines on the plan does not affect review of the project in any way and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

The Planning Commission does not feel that a new wearing course needs to be put down because the street is already blacktopped and the project is on a cul-de-sac which does have much heavy traffic over the existing lines. The Planning Commission did recommend a security amount be secured for maintenance.

On motion by Scott Parsons require no condition (no security to be posted) on Section 509.A.8 – A New Wearing Course to Protect Stormwater, Water and Sewer lines and seconded by George Hinton. Roll call vote taken. Motion carried unanimously.

On motion by George Hinton to approve a waiver of Section 509.A.7.a – Improvement Existing Street to Center Line. At present, Water Street is a 50' wide, dirt street and the project does not use this street and the Alternate Borough Engineer does not recommend that the Borough improve a "street to nowhere" in a wetlands area and seconded by Dave Hess. Roll call vote taken. Motion carried unanimously.

On motion by Tony Curcio to approve a waiver for Section 505.E.3 – Lot Depth cannot exceed 2-1/2 times lot width. The lot is 9'- wide so depth could not be greater than 22' ... but, in fact the depth is 500'. The PC recommends the waiver since only 200' of depth is useable and the remaining 300' is wetlands and seconded by Scott Parsons. Roll call vote taken. Motion carried unanimously.

On motion by Tony Curcio to approve a waiver for Section 509.L – Street Lights. The PC recommends a waiver since street lights are unnecessary as the area already has existing light posts and seconded by George Hinton. Roll call vote taken. Motion carried unanimously.

On motion by George Hinton to approve a waiver for Section 514.I.7 and Section 402.D.19 – Street Trees, Trees and Shrubs – Trees already exist in the area so tree planting is not necessary and seconded by Dave Hess. Roll call vote taken. Motion carried unanimously.

Ron Karasek explained that Section 402.D.12 and 402.D.14, 402.E.3, 403.D.11 and 506 – Stormwater Management and Soil Erosion Plans indicated on the Alternate Engineer Review Letter dated December 29, 2009 recites that the storm water and erosion waiver was recommended by the Planning Commission at its meeting of December 3, 2009, the Borough Solicitor has no record of this recommendation on file. The applicant did make a request regarding this waiver, but Ron does not have any information regarding action on this waiver. Scott stated that this waiver request will be tabled until the next meeting pending more information.

2. Traffic Lights – Update. **On motion** by George Hinton to upgrade the traffic lights to LED and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously.

3. Park Roof Replacement. Joe Weaver reported that the Park Board received three bids to replace the roof on the AA building.

The Roof Doctor - \$3,272

Kluska Home Improvements - \$3,300

Bernard and Sons - \$3,300

Park Board recommends Kluska Home Improvements because his bid was for 30 lb. tar paper. Any additional plywood necessary would be at a cost of \$40 per sheet. Louise informed that the bid exceeds the Park Board budget for repairs and are they aware that the balance would have to come out of another line item. Joe stated that he will inform the board and suggested that the money comes out of reserves

On motion by Joe Weaver to approve Kluska Home Improvements at a cost of \$3,300 and seconded by Scott Parsons. Roll call vote taken. In favor: S. Parsons, J. Weaver, T. Curcio, D. Hess, G. Hinton. Abstained: K. Gassler. (Mr. Kluska is a relation of Kerry). Motion carried with a vote of 5-0-1.

4. Part-time Police Officers. Scott Parsons appointed Dave Hess, Joe Weaver, the Mayor and Chief to set up interviews after all the applications have been submitted which is February 19, 2010.

5. **On motion** by George Hinton to look into a key fob for the Police Department and security cameras inside and out of the Police Station and the Borough Office and seconded by Dave Hess. Roll call vote taken. In favor: S. Parsons, J. Weaver, T. Curcio, D. Hess, G. Hinton. Abstained: K. Gassler. Motion carried with a vote of 5-0-1.

6. Brian Pysher stated that he reviewed the bids for the Park building roof replacement and the bid from Kluska does not include an ice and water shield ridge vent. **On motion** by Joe Weaver to contact Kluska Home Improvement and ask him if he will add ice shield at no additional cost and seconded by Tony Curcio. Roll call vote taken. In favor: J. Weaver, T. Curcio, D. Hess, G. Hinton, S. Parsons. Abstained: K. Gassler. Motion carried with a vote of 5-0-1.

7. Brian Pysher reported that the Sewer Authority put out a bid spec for replacement of sewer lines down Washington Street. Dave asked if this is the alley project that includes F alley. Brian will try to get more information on this project.

OLD BUSINESS

1. Scott Parsons asked Ron regarding the taxes related to the condemn property owned by Rick Keenhold on Eighth Street. Ron stated that he spoke to Louise about the tax numbers, but at this point he does not have final numbers. The Borough received the property on December 24, 2008. He will review and get back to Council.

2. Mayor Shoemaker reported that the Police responded to 140 calls in January. He attended the COG meeting on January 10, 2010. The COG has stated that they are in full support of the YMCA in Pen Argyl. The next COG meeting is February 24, 2010. The PA Conservation and Natural Resources grant applications are a 50/50 match.

On motion by Tony Curcio to adjourn the meeting of February 1, 2010. Council agreed unanimously.

The meeting of February 1, 2010 adjourned at 8:49 p.m.

Louise Firestone, Borough Administrator